IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 15399 of 2004

Between:

1 Government of Andhra Pradesh rep. by its Secretary,

Legal Affairs, Law Department, AP., Secretariat, Hyderabad
2 Special Officer (Now re-designated as Administrator Govt.,

Pleaders officer, High Court Buildings, Hyderabad

..... PETITIONERS

AND

1 Akbar Ali A/o Mahaboob Ali
Goverment Pleaders Office High court Buildings, Hyderabad
2 R.R.Sahadev, Senior Assistant (Since retired) Governement

Pleaders office High Court Buildings,Hyderabad

(R2 is not necessary party in this petition.)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of "Certiorari" and calling for the records relating to the order passed in

O.A.No.6466/1997, dt. 1/08/2003 on the file of the Hon'ble AP. Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary.

Counsel for the Petitioners: GP FOR SERVICES II

Counsel for the Respondent No.1: N.RAM MOHAN RAO

The Court, at the admission stage, made the following:

O R D E R: (Per Hon'ble Sri Justice Goda Raghuram)

The Writ Petition is directed against the Order of the Andhra Pradesh Administrative Tribunal, Hyderabad, dated 01.08.2003 in O.A.No.6466 of 1997, filed by the first respondent herein.

2 . The first respondent filed the O.A., in substance, aggrieved by the non-consideration of his claim for appointment as Senior Assistant from the post of Senior Stenographer, despite the option exercised by him as per Rules 5 and 23 of the A.P. Ministerial Service Rules (for short "the Rules"). He also sought a declaration that (a) he is entitled to be appointed as a Senior Assistant in accordance with his option and (b) that the proceeding dated 15.10.1997 promoting the second respondent herein as Senior Assistant ignoring his preferential claim for such appointment is illegal.

3 . Heard the learned Government Pleader for Services II and Sri N.Ram Mohan Rao, counsel for the first respondent.

4 . Before the Tribunal, the petitioners herein conceded that the first respondent made an application and that he was otherwise qualified for appointment as a Senior Assistant. They, however, contended that, as he did not have the requisite qualifications viz., a pass in Civil Judicial Test and Accounts Test for Subordinate Officers

Part-I, which is a pre-requisite for eligibility for promotion as a Senior Assistant, as per Rule 23 (2) read with Annexure-II of the Rules, the first respondent herein was

rightly declined the benefit of appointment as Senior Assistant.

5. The Tribunal allowed the O.A. by the judgment dated 01.08.2003 and directed that the case of the first respondent be considered for appointment as a Senior Assistant as per Rules from the date of filing of his application in October, 1997. In so far as his claim for promotion to the post of Superintendent is concerned, the Tribunal observed that the first respondent herein had to necessarily pass the relevant departmental tests, which however, were not necessary for appointment (conversion) as Senior Assistant.

6. In view of the provisions of Rule 5 read with 23 (1) of the Rules, read with annexure I and II (relevant to Rule 23 of the Rules), the position is beyond dispute that the qualifications prescribed in Annexure-II are the requisite qualifications for promotion as Senior Assistant and not for appointment to the post of Senior Assistant. Annexure-I, which sets out the requirements for holding a post on appointment, does not specify any test for a Senior Stenographer for appointment to the post of a Senior Assistant. Rule 5 only requires a service qualification, which undoubtedly the first respondent herein possesses.

7. On the above analysis, the assumption underlying the institution of this Writ Petition is baseless. The Writ Petition is without any merits and is accordingly dismissed at the stage of admission.

_____

J.CHELAMESWAR, J.

Dated: 01.10.2004.

_____

GODA RAGHURAM, J.

gs/mrk

To

1. The Secretary to Government,

Legal Affairs, Law Department,
AP., Secretariat, Hyderabad
2. The Special Officer (Now re-designated as Administrator,

Government Pleaders' office, High Court Buildings, Hyderabad

3. The Registrar, A.P. Administrative Tribunal, Hyderabad.

4. 2CCs to GP for Services II, High Court of A.P. Hyderabad(OUT).

5. 2CD copies